

CALIFORNIA COASTAL COMMISSION

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F19b & 20a

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COASTAL DEVELOPMENT PERMIT & Appeal Staff Report (COMBINED)

SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Application number **3-01-113 and A-3-SLO-02-068, Pump Station No. 2 Relocation and Force Main Replacement**

Applicant Cayucos Sanitary District

Project location Morro Strand State Beach (24th Street, Pacific Ave. and Studio Drive), Cayucos, San Luis Obispo County (APN 073-093-001).

Project description Relocate and reconstruct a sanitary sewer pump station, and replace an 8-inch diameter sewer force main under Old Creek with a new 10-inch force main; existing pump station to be abandoned in place while existing line would be kept in place as an emergency back-up line.

File documents Coastal Act; San Luis Obispo County certified Local Coastal Program; Expanded Initial Study and Mitigated Negative Declaration (Oasis Associates, Inc. June 2001); Coastal Zone Boundary Determination No. 30-2002 (10/3/01)

Staff recommendation **Approval with Conditions**

Procedural Note: This is the substantial issue determination and de novo hearing for appeal number A-3-SLO-02-086, as well as the De Novo review of CDP application number 3-01-113. The staff report has been combined because this is a single project that spans two jurisdictions. As such, the certified SLO County LCP is the standard of review for the appealed portion of the project, and the Coastal Act is the standard of review for the segment of piping located beneath Old Creek lagoon, which is in the Coastal Commission's original permit jurisdiction (see Exhibit C for the CCC/County jurisdictional boundary determination).

Summary: The Cayucos Sanitary District (CSD) maintains and operates a sanitary sewer collection system in the Community of Cayucos. The collection system includes approximately 23.1 miles of gravity collection sewers and five pump stations. The CSD has experienced difficulty with the capacity of Pump Station #2, regarding its ability to accommodate existing peak wet weather flows. Temporary surcharging in the upland collection system has occurred. The CSD also has concerns regarding the integrity of the



California Coastal Commission
April 11, 2003 Meeting in Santa Barbara

Staff: J. Bishop Approved by:

existing 8-inch force main pipe that crosses beneath the mouth of Old Creek located south of the pump station, and associated risks of leakage and/or failure. The CSD is therefore proposing to relocate and reconstruct Pump Station #2, and replace the 8-inch diameter sewer force main under Old Creek with a new 10-inch force main. The creek crossing would be accomplished using a horizontal directional drilling (HDD) method of construction. The project is located in the Morro Strand State Beach area of Cayucos in San Luis Obispo County.

The project involves construction within a beach area and two parking lots that serve coastal access and recreation, boring beneath and adjacent to sensitive wetlands and riparian habitats, and installation of sewer collection infrastructure within these significant coastal resource areas. Construction activities have the potential to temporarily disrupt coastal access and recreation by reducing parking and obstructing access routes and beach area. Construction activities also have the potential to degrade environmentally sensitive habitat areas by discharging sediments and pollutants to the adjacent lagoon. To avoid and minimize these impacts consistent with the requirements of the Coastal Act and the San Luis Obispo County certified Local Coastal Program (LCP), the recommended Special Conditions require the permittee to minimize site disturbance, employ best management practices, and restore all areas disturbed by construction. The unavoidable temporary loss of public parking is required to be mitigated through improvements to the southern parking lot that will be used for construction. In addition, the landscaping proposed as part of the project and required by the recommended conditions of approval will prevent the replacement facilities from degrading scenic resources.

The proposed replacement of these sewer system components raises additional concerns and opportunities regarding the long-term protection of coastal resources. The replacement of the aging infrastructure provides an opportunity to enhance the scenic qualities of the area by removing outdated facilities that are incompatible with the natural surroundings, and by screening the above ground replacement facilities. Implementation of these improvements is called for by the recommended conditions of approval in order to carry out LCP and Coastal Act scenic resource protection policies.

The proposed force main replacement also provides an opportunity to use an alternative above-ground creek crossing, involving the suspension of the replacement line from the nearby Highway One bridge (approximately 300 feet inland of the proposed alignment), which will allow for quick detection and repair of sewage leaks, and avoid the potential for the pipe to become exposed or damaged as a result natural coastal processes. Although such an inland route presents some technical challenges, and will not completely avoid adverse impacts, it is a feasible alternative that will best protect coastal resources and access and recreation opportunities in accordance with Coastal Act and LCP requirements. Implementation of this alternative is therefore also required by the recommended conditions of approval.



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Exhibits

- A. Project Location
- B. Project Site Beach Area Photos
- C. Project Boundary Determination and Site Plan
- D. Local Government Findings and Conditions of Approval
- E. Full Text of Commissioner Appeal
- F. Correspondence

1. Summary of Appellant's Contentions

Please see Exhibit E for the full text of the appeal.

The appellants, Commissioners Nava and Dessler, have appealed the final action taken by the Planning Commission Hearing Officer regarding the portion of the development within San Luis Obispo County's permit jurisdiction on the basis that approval of the project is inconsistent with the standards of the San Luis Obispo County Local Coastal Program regarding Environmentally Sensitive Habitat Areas (ESHA), Coastal Hazards, Public Access and Recreation, and Visual Resources.

2. Local Government Action

The San Luis Obispo County Planning Commission approved a Minor Use Permit/Coastal Development Permit for the project on July 19, 2002 (San Luis Obispo County Permit File No. D010175P). The local findings and conditions of approval are attached as Exhibit D.

3. Standard of Review Appeals

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. Section 23.01.043c(3) of the San Luis Obispo Coastal Zone Land Use Ordinance specifies the sensitive coastal resource areas where development is appealable to the Coastal Commission, which includes environmentally sensitive habitat areas such as wetlands and coastal streams. As determined by the County, this project is appealable to the Coastal Commission because it is a major public works project, is located between the first public road and the sea, and involves development within Sensitive Resource Areas designated by the LCP; specifically, the



project proposed development within environmentally sensitive habitats associated with the dune, wetlands, riparian corridor, and coastal lagoon associated with Old Creek.

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is located between the nearest public road and the sea and thus, this additional finding needs to be made in a *de novo* review in this case.

4. Standard of Review for Permits

A portion of the proposed development (placement of the new sewer force main segment under Old Creek) would take place on the beach within the Coastal Commission’s retained coastal permitting jurisdiction. Because of this, the County certified Local Coastal Programs can provide non-binding guidance, but the standard of review for the proposed coastal development permit is the Chapter 3 resource protection policies of the Coastal Act.

5. Staff Recommendation on Substantial Issue

MOTION: *I move that the Commission determine that Appeal No. A-3-SLO-02-068 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-SLO-02-068 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

6. Staff Recommendation on CDP Application



The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number A-3-SLO-02-068 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of coastal development permit A-3-SLO-02-068 as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit A-3-SLO-02-068 on the ground that the development as conditioned, will be in conformity with the provisions of the San Luis Obispo County certified Local Coastal Program. Approval of the coastal development permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

Motion. I move that the Commission approve Coastal Development Permit Number 3-01-113 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of coastal development permit 3-01-113 as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit 3-01-113 on the ground that the development as conditioned, will be in conformity with the provisions of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

7. Conditions of Approval

A. Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner



and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Approved Development.** This coastal development permit authorizes the following development, subject to Executive Director approval of final plans, and compliance with all special conditions below:
 - (a) Replacement of Pump Station #2 with a new pumps station that has a maximum capacity of 2,000 gpm;
 - (b) Replacement of the existing 8-inch of a new 10-inch sewer force main using an inland alignment/Highway One bridge crossing;
 - (c) Installation of new wet well, motor control panel, and manhole;
 - (d) Removal of all existing infrastructure that will no longer be necessary after replacement facilities are installed, provided that removal of the force main shall occur as it becomes naturally exposed (see Special Condition 2c);
 - (e) Use of two beach parking lots for construction staging;
 - (f) Repair and restoration of all areas disturbed by construction;
 - (g) Installation of fencing and interpretive signs within and adjacent to the parking lot on the south side of Old Creek to enhance resource protection and public access and recreation opportunities and.

The permittee shall undertake development in accordance with the finals plans approved by the Executive Director pursuant to the special conditions below. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the approved plans shall occur without a Commission amendment to coastal development permit unless the Executive Director determines that no amendment is necessary.



2. Revised Plans for Relocation of Pump Stations, and Restoration of Beach Area and Parking Lots. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT A-3-SLO-02-068, the Permittee shall submit two sets of revised project plans to the Executive Director of the Coastal Commission for review and approval. The final project plans shall be consistent with the following requirements:

- (a) Design and Location.** The design of the new pump station #2 shall be in substantial conformance with the Preliminary plans prepared by Quad Knopf dated October 2001. Final Plans shall demonstrate that the location and design of the new pump station #2 can accommodate a future inland sewer force main route. Motor control panel height shall be no greater than 5 feet as measured from the parking lot elevation.
- (b) Removal.** Plans shall indicate the complete removal of the existing pump facilities, including but not limited to the concrete wet well and steel dry well for the existing pumps, following one week of successful operation of the new pump station # 2.
- (c) Restoration and Enhancement.** Plans shall provide for the restoration of all areas disturbed by construction using native plant appropriate to the site, as well as for the enhancement of the parking lot on the south side of Old Creek to California Department of Parks and Recreation and LCP standards. Such enhancements shall include, but may not be limited to, the installation of a low fence (e.g. split rail, peeler post) that delineates the parking area and prevents cars from driving into the beach/lagoon area, and the installation of interpretive signs to inform the public of the sensitive resources in the area. The plan shall be submitted with evidence of California Department of Parks and Recreation review and approval, and implemented within six (6) months from the date that project construction commences. Restoration plans shall utilize native plant species appropriate to the site and specifically prohibit the use of non-native species.

3. Revised Plans for Sewer Line Construction, and Restoration of Beach Area. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT 3-01-113, the Permittee shall submit two sets of revised plans to the Executive Director of the Coastal Commission for review and approval, that are consistent with the following requirements:

- (a) Location.** The alignment of the replacement pipeline shall avoid development in or below Old Creek, or its riparian habitats, by following an inland route and using the Highway One bridge to cross the creek. The plans may provide for the use of the existing 8-inch sewer force main on a temporary basis, not to exceed one year from the date of Commission action, to allow for the final planning and construction of the replacement pipe.
- (b) Removal.** If at any time in the future, the existing 8-inch sewer main or any other abandoned infrastructure becomes exposed, the Cayucos Sanitary District shall remove the exposed infrastructure within 30-days, unless the Executive Director determines that removal will have significant adverse impacts.
- (c) Restoration.** Should removal be required pursuant to section (b) above, the permittee shall submit, for Executive Director review and approval, a plan to avoid impacts to coastal access and



resources during removal, and to restore all affected areas affected by construction. The removal and restoration plan shall be submitted at least 10 days prior to the initiation of removal activities.

- 4. Drainage and Erosion Control Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS 3-01-113 and A-3-SLO-02-068, the Permittee shall submit drainage and erosion control plans to the Executive Director for review and approval. Such plan shall clearly identify all best management practices to be implemented during construction and their location. Such plans shall contain provisions for specifically identifying and protecting all nearby drainage features (with sand bag barriers, filter fabric fences, straw bale filters, etc.) to prevent construction-related runoff and sediment from entering into these drainage features that ultimately deposit runoff into the Pacific Ocean. Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site. At a minimum, such plans shall also include provisions for stockpiling and covering of materials, temporary stormwater detention facilities, revegetation as necessary, and restricting grading and earthmoving during the rainy season from October 15th through April 15th.

The drainage and erosion control plans should make it clear that: (a) dry cleanup methods are preferred whenever possible and that if water cleanup is necessary, all runoff shall be collected to settle out sediments prior to discharge from the site; all de-watering operations shall require filtration mechanisms; (b) off-site equipment wash areas are required; the use of soaps, solvents, degreasers, or steam cleaning equipment is prohibited on the beach; (c) concrete rinsates shall be collected and shall not be allowed into storm drains or natural drainage areas; (d) good construction housekeeping shall be required (e.g., clean up all leaks, drips, and other spills immediately; refuel vehicles and heavy equipment off-site and/or in one designated location; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather); and finally (e) all erosion and sediment controls shall be in place prior to the commencement of grading and/or construction as well as at the end of each day

- 5. Construction Operation Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS 3-01-113 and A-3-SLO-02-068, the Permittee shall submit to the Executive Director for review and approval a plan that indicates that the construction staging area(s) and construction corridor(s) will avoid and minimize impacts to public access, sensitive habitats, and coastal water quality.

(a) The plan shall demonstrate that:

- (1) construction equipment or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition;
- (2) access to Morro Strand State Beach from parking areas, and along the beach fronting the project site, shall not be blocked;
- (3) public safety and sensitive habitat areas will be protected by delineating construction areas with temporary construction fencing;



- (b) The plan shall include a site plan that, at a minimum, depicts:
 - (1) the limits of the staging area(s), including the location of any temporary construction trailers, parking, and storage areas, in a manner that avoid sandy beach areas, wetlands, and riparian habitats and minimizes the loss of public parking to the greatest extent feasible; and
 - (2) the location of all construction areas, construction corridor(s), and temporary construction fencing that minimize site disturbance to the greatest degree feasible;
- (c) The plan shall also provide for the restoration of all areas disturbed by construction, and shall include the following:
 - (1) site plan showing restored contours;
 - (2) schedule for restoration work;
 - (3) time limit for completion of restoration for construction impacts;
- (d) The plan shall identify that it is the responsibility of the permittee to:
 - (1) Avoid the placement or storage of construction materials, debris where it may be subject to wave erosion and dispersion;
 - (2) Remove all debris resulting from construction activities from the beach at the end of each day of construction;
 - (3) Prevent machinery from entering the beach lagoon or intertidal zone at any time;
 - (4) Re-deposit all excavated beach sand shall at the same location in which it was removed;
 - (5) Designate off-site areas to rinse and re-fuel construction vehicles and machinery so that no such activities take place on the beach, parking lots, or other areas that could adversely impact coastal water quality;
 - (6) Restore the beach area and parking lot contours to their pre-construction condition within 7 days of the completing repairs; and
 - (7) Remove of all debris resulting from failure or damage of any portion of the pump station and sewer line in the future.

6. Landscape Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS 3-01-113 and A-3-SLO-02-068, the Permittee shall prepare a landscape and screening plan for the review and approval of the Executive Director. The plan shall provide for the revegetation of all unpaved areas of the project site that will be disturbed by construction with native plant materials appropriate to the area, and shall screen proposed motor control panel and all other above ground infrastructure components but avoid encroachment into public views of the coast and ocean.

7. Future Shoreline Erosion Response. The Permittee shall not construct, now or in the future, any shoreline protective device(s) for the purpose of protecting the Pump Station #2 or sewer line repair



approved pursuant to coastal development permit 3-01-113 and A-3-SLO-02-068 including, but not limited to, the sewer line, manholes, or pump station modifications in the event that these structures are threatened with imminent damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future and by acceptance of this permit, the Permittee hereby waives any rights to construct such devices that may exist under Public Resources Code Section 30235.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS 3-01-113 and A-3-SLO-02-068, the Permittee shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

- 8. Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permits 3-01-113 and A-3-SLO-02-068, the Permittee acknowledges and agrees: (a) that the site is subject to hazards from episodic and long-term bluff retreat, waves, flooding, liquefaction and erosion; (b) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (d) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (e) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the Applicant.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS 3-01-113 and A-3-SLO-02-068, the Permittee shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

- 9. State Parks Approval.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT A-3-SLO-02-068, the Permittee shall submit to the Executive Director for review and approval a copy of a permit, letter of permission, or evidence that no permit or permission is required, from the California Department of Parks and Recreation that allows for the pump station relocation and sewer line repair authorized under this permit to take place on California Department of Parks and Recreation property. The Permittee shall inform the Executive Director of any changes to the project required by the California Department of Parks and Recreation. Such changes shall not be incorporated into the project until the Permittee obtains a Coastal Commission-approved amendment to this Coastal Development Permit, unless the Executive Director determines that no amendment is required.
- 10. Other Property Owner Authorizations.** PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES ON PRIVATE PROPERTY, the Permittee shall submit evidence that an easement or other form of legal authorization to conduct the development activities authorized by this permit have been secured.
- 11. Compliance with Local Conditions of Approval.** This Coastal Commission action has no effect on



conditions imposed by the County of San Luis Obispo pursuant to an authority other than the Coastal Act. Where there is a conflict between the conditions of the local approval and the terms of this permit, the terms of this permit shall control.

8. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location

The proposed project is located in the Morro Strand State Beach Area of Cayucos, San Luis Obispo County (see Exhibit A). A large portion of the development will take place within and directly adjacent to two beach parking lots located on opposite sides of Old Creek and fronting on the State Beach. This development is within the County's permit jurisdiction and the Commission's appeal jurisdiction and includes construction, construction staging, and relocating the existing pump station at the north parking lot (near the intersection of Pacific Avenue and 24th Street) approximately 140 feet to the north of its current location.

The sewer pipe bore and installation process is proposed to occur on and under the beach and lagoon environment between the parking lots, involving development within the Commission's original permit jurisdiction (see Exhibit C). The proposed alignment runs parallel to, and approximately 15 feet seaward of, the existing pipe. The new force main will be 20 feet below ground surface at its deepest section, with both connecting ends gradually arching upwards and terminating at points located in the north and south parking lot areas.

These important public recreation and habitat areas are contained within the urban residential community of Cayucos. The project site is bordered by two residential neighborhoods to the northeast and southeast, which are connected by a Highway One bridge over Old Creek, which supports sensitive riparian and aquatic resources. The Highway One bridge is roughly 300 feet inland from the proposed force main alignment.

It should be noted that the portion of the sewer collection system to be replaced by the proposed project is the only segment of the entire system (extending from Cayucos to the sewage treatment plant in Morro Bay) that is located under sandy beach cover. All other segments are located under streets and suspended from bridges.



B. Project Description

The Cayucos Sanitary District (CSD) maintains and operates a sanitary sewer collection system in the Community of Cayucos. The collection system includes approximately 23.1 miles of gravity collection sewers and five pump stations. The CSD has experienced difficulty with the capacity of Pump Station #2, particularly during wet weather, which has caused temporary surcharging in the upland collection system. The CSD also has concerns regarding the remaining lifespan of the existing 8-inch force main that crosses beneath the mouth of Old Creek south of the pump station, and the associated risk of leakage and/or pipe failure. To address these problems, the CSD proposes to relocate and reconstruct Pump Station #2, and replace the 8-inch diameter sewer force main under Old Creek with a new 10-inch pipeline. The underground creek crossing would be accomplished using a horizontal directional drilling (HDD) method of construction.

The proposed 702-foot long force main will be bored under the creek through clay soils and sand and encased within in a 16-inch high-density polyethylene (HDPE) casing. Groundwater will be encountered 10 to 12 feet below ground surface. The CSD proposes to leave the existing pipeline in place so it can be used as an emergency relief line (See Exhibit C for a site plan of the proposed project).

In addition to relocating and replacing the pump station and sewer force main, the project involves construction of a new concrete wet well structure containing two submersible wastewater pumps in a planter area between Pacific Street and the State Park parking lot north of Old Creek. A new motor control center would also be installed, adjacent to the new manhole structure to be placed in the center of the north parking lot area. The existing dry pit pump station would be stripped of equipment, abandoned in place, and filled with sand.

C. Marine Resource and Sensitive Habitats

1. Substantial Issue Findings (A-3-SLO-02-068)

a. Summary of Appellant's Contentions

In summary, the appellants contend:

⇒ *The County approved project is inconsistent with the policies and ordinances of the LCP protecting Marine Resources and Environmentally Sensitive Habitat Areas because the proposed route of the sewer force main, and method of installation, pose significant adverse impacts to ESHA...Although mitigation measures incorporated into the County's approval would be expected to reduce negative resource impacts, such impacts are not reduced to the greatest degree possible. Moreover, these impacts could be avoided using feasible inland routing alternatives.*

⇒ *The project is also inconsistent with the 100-foot wetland setback policies required by the LCP.*



Within the setback area, the applicant proposes to stage construction equipment, install additional force main segments, and abandon and fill the existing pump facilities. These actions may negatively impact the coastal wetland and its surrounding riparian resources, inconsistent with the LCP's riparian/wetland buffer policies. Feasible alternatives exist for the pump station replacement that would have less impact on the habitat. For example, removal of the existing pump facilities, coupled with habitat restoration, would better protect the habitat.

⇒ *The project is inconsistent with the LCP provisions protecting marine resources due to the pollutants that may be released during drilling, or if the pipe is damaged by coastal erosion...In this case, a project design that completely avoids potential impacts to marine resources through the use of an inland route must be pursued to comply with LCP marine resource protection policies.*

b. Applicable Coastal Act and LCP Provisions

Coastal Act Sections 30230 and 30231 provide:

Section 30230. *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231. *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Coastal Act Section 30232 states:

Section 30232. *Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

Coastal Act Section 30240 states:

Section 30240(a). *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*



Section 30240(b). *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The following LCP Policies apply:

Policy1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats. *New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area. (THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO).]*

Policy 2: Permit Requirement. *As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]*

Policy 3: Habitat Restoration. *The county or Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170 OF THE CZLUO.]*

Policy 5: Protection of Environmentally Sensitive Habitats. *Coastal wetlands are recognized as environmentally sensitive habitat areas. The natural ecological functioning and productivity of wetlands and estuaries shall be protected, preserved, and where feasible, restored. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.170-178 OF THE CZLUO.]*

Policy 10: State Department of Fish and Game Review. *The State Department of Fish and Game shall review all applications for development in or adjacent to coastal wetlands and recommend appropriate mitigation measures where needed which should be incorporated in the project design. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.172 OF THE CZLUO.]*

Policy 13: Vehicle Traffic in Wetlands. *No vehicle traffic shall be permitted in wetlands. This shall not restrict local and state agencies or the property owner from completing the actions necessary to accomplish a permitted use within the wetland. Pedestrian traffic shall be regulated and incidental to the permitted uses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

Policy 14: Adjacent Development. *Development adjacent to coastal wetlands shall be sited and designed to prevent significant impacts to wetlands through noise, sediment or other disturbances. Development shall be located as far away from the wetland as feasible, consistent with other habitat*



values on the site. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.172 OF THE CZLUO.]

Policy 15: Wetland Buffer. *In new development, a buffer strip shall be required and maintained in natural condition along the periphery of all wetlands. This shall be a minimum of 100 feet in width measured from the upland extent of the wetland unless a more detailed requirement for a greater or lesser amount is included in the LUE or the LUO would allow for adjustment to recognize the constraints which the minimum buffer would impose upon existing subdivided lots. If a project involves substantial improvements or increased human impacts, necessitating a wide buffer area, it shall be limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges, and roads when it can be demonstrated that: a) alternative routes are infeasible or more environmentally damaging, and b) the adverse environmental effects are mitigated to the maximum extent feasible. Access paths and/or fences necessary to protect habitats may also be permitted.*

The minimum buffer strip may be adjusted by the county if the minimum setback standard would render the parcel physically unusable for the principal permitted use. To allow a reduction in the minimum standard setback, it must be found that the development cannot be designed to provide for the standard. When such reductions are permitted, the minimum standard shall be reduced to only the point at which the principally permitted use (development), modified as much as is practical from a design standpoint, can be accommodated. At no point shall this buffer be less than 25 feet. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07.172 OF THE CZLUO.]

c. County Action for Portion Within Appeal Jurisdiction

San Luis Obispo County approved the subject pump station relocation and sewer main replacement subject to a number of special conditions protecting sensitive biological resources. These include monitoring, surveys for snowy plover, construction training, preparation of Sediment and Erosion Control Plans, a Drainage Plan, and preparation of a “frac-out”¹ Contingency and Clean-up Plan. The County has also conditioned the project to require the removal of the existing, to be abandoned, infrastructure should any portion of it be exposed in the future due to storm erosion (tidal or fluvial).

The County made findings for development within ESHA, included in Exhibit D. In summary, the County found that relocating the pump station away from the top of the creek bank and outside of the wetland buffer area would be a benefit to the sensitive resources present here. Second, because the construction area is within an existing developed parking lot the County found that the development would not have an adverse effect on sensitive resources associated with Old Creek. Third, the County found that the potential adverse impacts associated with construction and boring in the area of Old Creek are mitigated through monitoring and early detection.

d. Substantial Issue Analysis and Conclusion

In this case, the LCP addresses development within or adjacent to Environmentally Sensitive Habitat

¹ “Frac-out” refers to instances where soils and lubricants involved in the drilling process are forced to the surface.



Areas (ESHA) primarily through LCP Policies 1, 2, & 3. Policies 5 & 10 require protection of ESHA's and referral of projects to the Dept. of Fish and Game. Policies 13, 14, 15 limit activities in and adjacent to wetlands and set the buffer areas of at least 100 feet from the upper extent of the wetland. Policies 18, 19, 20, 24, and 26 mimic wetland protection policies by identifying riparian vegetation as an ESHA. These policies are implemented through CZLUO Sections 23.07.160 –174. In addition, Marine Habitat Policies 36, 37, and 38 require that shoreline structures, including pipelines, be sighted and designed to avoid and minimize impacts on nearshore marine habitats. These policies are implemented through Section 23.07.178. These policies require that development located within or adjacent to ESH shall not significantly disrupt the resource, and that the development be compatible with the biological continuance of the resource. On the whole, these LCP policies recognize that development within or in close proximity to ESHA can have negative resource impacts and should be avoided if feasible.

The approved plans show that the existing pump station facilities are located within the 100-foot wetland setback called for by the LCP, as is a portion of the existing parking lot where the construction staging and boring would be located. The County approved project allows the existing pump stations to be abandoned in place and filled with sand. Abandoning decommissioned urban infrastructure within this important coastal resource areas is not consistent with wetland setback standards, nor with LCP policies calling for the protection and enhancement of such areas, because these facilities can, over-time, become hazardous to the public, visual eyesores, and incompatible with natural habitat values. Thus, a substantial issue exists with respect to the project's consistency with the resource protection policies cited above.

The proposed drilling activities will also occur within the 100-foot setback called for by the LCP, and poses a risk to the sensitive resources present here from the possibility of a "frac-out" (when drilling fluid used to lubricate the drill head is released at the surface). This has the potential to cause significant damage to the sensitive habitats within and adjacent to Old Creek. Also of concern is the potential for the replacement pipeline to fail or break, which would also result in the discharge of harmful materials into sensitive aquatic habitats. Thus, the proposed location of the replacement pipe, and the proposed method of installation, raises a substantial issue regarding project conformance with the marine resource and sensitive habitat protection policies of the LCP.

2. Coastal Development Permit Findings (A-3-SLO-02-068 and 3-01-113)

The proposed sewer line would be located on Morro Strand State Beach along the shores of Estero Bay. Morro Strand contains important shoreline and marine resources, and has long been a focal point for area residents and visitors alike; providing outstanding recreational opportunities for surfers, fishers, divers, marine researchers, artists, walkers, kayakers, and boaters, among others. Old Creek is home to a number of rare and/or endangered species including: tidewater goby, red-legged frog, and southwestern pond turtle. In addition, the beach provides nesting and foraging habitat for the Western snowy plover. As such, the beach, wetland, and riparian resources involved with the proposed project are sensitive coastal resources of state and federal significance.



Short Term Impacts

The proposed drilling process involves use of drilling fluid consisting of water and bentonite (or clays) that function as a lubricant, suspend cuttings, and act as a sealant to fill spaces around the hole. Once a pilot hole has been created, a series of reams is initiated which successively widens the bore until it reaches the desired width and destination. The protective casing and sewer force main are then installed by attaching the piping to the drill head and pulling it back through the entire length of the borehole. The primary risk to the environment from this method of drilling is the possibility of a “frac-out”. A “frac-out” is when the drilling fluids migrate through the substrate during boring, and are released at the surface. “Frac-outs” are typically dealt with by vacuuming the released lubricant while slowing the bore advancement past the fracture point, or attempting to plug the fracture using natural materials or chemical sealants.

Frac-outs may be terrestrial or aquatic in nature and vary in size and quantity. Terrestrial frac-outs are typically easier to contain and therefore result in temporary impacts to the environment. Aquatic frac-outs are more problematic because bentonite disperses rapidly and settles in water. There are two specific indirect effects on bentonite on aquatic life. First, bentonite, which is suspended in the water column, may inhibit respiration of fishes and other aquatic life. Next, once the bentonite settles, secondary long-term impacts can result. For example, egg masses of aquatic life can be smothered, inhibiting flow of dissolved oxygen to the eggs. Or, aquatic organisms may be covered and suffocate due to fouled gills and/or lack of oxygen.²

According to the County staff report and submitted environmental documents, “frac-outs” are often common at stream and creek crossings due to the presence of poorly consolidated alluvial sediments at such locations. As described in the County staff report, recent statistics from Worldcom, which installed approximately 28 miles of conduit using HDD technology reported a frac-out average of 1 per 600 linear feet, with a much higher rate at stream and drainage crossings. In addition, recent communications with the Department of Fish and Game indicate that 5 of the last 6 stream crossings in the area using HDD technology have resulted in frac-out. At the subject site, however, the stream alluvium is underlain by dense clay as a result of its estuarine environment. According to the Commission staff geologist, this material represents nearly ideal drilling conditions for HDD, and the possibility of frac out is much lower than at typical alluvium stream crossings. Nevertheless, the potential for a frac-out, and resulting damage to sensitive resources cannot be ruled out.

Although mitigation measures proposed by the Applicant would minimize impacts should a frac-out occur, such impacts could still lead to a significant disruption of sensitive habitats, inconsistent with Coastal Act Sections 30230, 30231, and 30240(b) requiring maintenance and enhancement of coastal waters and sensitive marine and wetland habitats areas. Thus, the greatest protection for sensitive habitats and marine resources would be to avoid the use of HDD in this area and select an alternative inland routing method, that would not require drilling under the creek (see alternatives analysis below).

² Forkert Engineering and Surveying, Inc. and Chambers Group Inc., *Horizontal Directional Drilling: Contingency and Resource Protection Plan for Construction of the AT&T Fiber Optic Cable Installation Project*. November 2001, pg. 2.



Long Term Impacts

The potential for future sewage leaks and spills to occur under and adjacent to the creek also pose significant adverse impacts to sensitive coastal wetland and marine habitats. The underground alignment would make small leaks difficult to detect. Such leaks could cause sewage to surface in the lagoon environment and diminish the biological productivity of coastal waters by reducing the oxygen necessary to support aquatic habitats. In the event of a major failure, the underground location would make repairs difficult to complete, and such repairs would have the potential to damage lagoon resources. Although the CSD proposes to retain the existing pipe for use as a back up in the event of such a failure, the CSD also acknowledges that this pipe may be reaching the end of its lifespan. Thus, its ability to provide effective back up over the long-term must be called into question.

The environmental risks associated with the proposed alignment are exacerbated by the hazardous nature of the project site, as discussed in subsequent findings of this report. If the replacement pipe is damaged by coastal erosion, the adjacent pre-existing pipe will also be likely be rendered unfit as a usable back-up line. Given these risks, it is essential to pursue alternatives that better protect marine resources and human health (Coastal Act Sections 30230, 30231, and 30240), and that minimize the potential for the discharge of wastewater and hazardous substances (Coastal Act Section 30232).

Alternatives

The following alternatives are available to provide the necessary improvements to the segment of the Cayucos wastewater collection system that is the subject of these permits:

Option 1 (Proposed): Install a new line parallel to, and seaward of, the existing sewer line using directional drilling;

Option 2 (Inland Bore): Install a new line inland of the existing sewer line using directional drilling;

Option 3 (Inland Bridge): Relocate the sewer line from the beach to inland route that uses a new bridge crossing;

Option 4 (Highway One Bridge): Relocate the sewer line from beach to an inland route suspended from the Highway One bridge.

The primary difference between these alternatives is whether to locate the pipe under ground (Options 1 and 2) or above ground (Options 3 and 4). The following table provides a summary comparison of these two options:



Issue	Under Old Creek Route (HDD boring)	Inland/Bridge Route
Visibility	Out of public viewshed, but could “daylight” due to natural processes.	Depends on location. New utility bridge may be visible, below or along Highway One bridge not visible.
Corrosion	Low	Moderate
Leak Detection	Poor	Good
Access for Repairs	Poor	Good
Where leaks go	Into ground, but may surface in creek.	Into creek
Potential for Significant Impacts During Construction	Moderate	Low
Natural Hazards Exposure	High	Moderate
Ease of Upgrade	Good	Good
Right of Way Acquisition	Available	Unknown -Need to arrange
Cost	Moderate	Unknown

The above comparison indicates that both the underground and aboveground options offer particular challenges and opportunities. From a marine resource and sensitive habitat protection standpoint, the most significant difference between these options relates to the ability to avoid harmful discharges to coastal waters, both during construction and over the long-term. As previously noted, an inland alignment would avoid potential adverse impacts with HDD drilling, reduce the potential for damage to or exposure of the line as a result of coastal erosion, and provide a better opportunity for leaks to be detected and repaired in



a timely manner.

Such an inland route does not eliminate the risks to sensitive habitat posed by sewer line leaks all together. In fact, leaks from a bridge crossing could have adverse short-term impacts because the untreated sewage would enter directly into the creek without the benefit of any filtration by soil. The ability to quickly detect and repair such leaks, however, provides an effective means of preventing significant long-term impacts. In comparison, the difficulties of detecting and repairing leaks from an underground pipe, would result in a more persistent presence of inadequately treated sewage that pose more significant long-term adverse effects to aquatic habitats and coastal waters.

Therefore, in order to protect coastal resources and approve the Coastal Permit consistent with the LCP and Coastal Act, the beach sewer line should be re-routed to avoid and minimize adverse impacts to sensitive habitats and marine resources. Recognizing that the implementation of an inland route will require additional planning, the conditions of Commission approval have been designed to enable replacement of the pump station to occur during the time that this planning will occur.

To further protect marine and sensitive resources consistent with Coastal Act and LCP requirements, the conditions require areas of disturbance to be minimized, Best Management Practices to be implemented and areas disturbed by construction restored.

Only with these conditions will the proposed project comply with the requirements of Coastal Act Sections 30230, 30231, 30232, and 30240 to: maintain and enhance ESHA and marine resources and associated water quality; maintain and enhance the biological productivity and quality of coastal waters for the protection of human health and marine organisms; and protect against the spillage of substances hazardous to human health and marine organisms.

D. Coastal Hazards

1. Substantial Issue Findings

a. Summary of Appellant's Contentions

With Respect to Hazards, the Appellant's contend:

⇒ *Locating public infrastructure and abandoning unused facilities within such hazardous areas, is inconsistent with the LCP Hazards Policies 1 and 3. Alternative designs that follow an inland route and bridge crossing can be implemented to avoid and greatly minimize risks associated with coastal hazard areas.*

b. Applicable Coastal Act and LCP Provisions

Coastal Act Section 30235 addresses the use of shoreline protective devices:



Section 30235. *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and avoid additional, more substantial protective measures in the future. Section 30253 provides, in applicable part:

Section 30253. *New development shall:*

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The following LCP Policies and Ordinances apply:

Policy 1: New Development. *All new development proposed within areas subject to natural hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. Along the shoreline new development shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure. Construction of permanent structures on the beach shall be prohibited except for facilities necessary for public health and safety such as lifeguard towers. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD]*

Policy 3: Development Review in Hazard Areas. *The County shall require a detailed review of development proposed within the geologic study area and flood hazard combining designations as indicated on the LUE maps for the coastal zone. The review shall be performed by a qualified registered and/or certified engineering geologist and shall be adequately detailed to provide recommendations and conclusions consistent with this plan...*

c. County Action for Portion Within Appeal Jurisdiction

The County approved the project subject to 33 conditions. As mentioned, the existing pump station and a sewer pipe segments are within the Flood Hazard area designation associated with Old Creek. The County approved the abandonment in place of the existing pump station facilities upon removal of all mechanical pieces. The County has conditioned the project to require complete removal of the existing pump station and sewer line in the event that any portion becomes exposed due to wave or stream erosion.



d. Substantial Issue Analysis and Conclusion

Hazards Policy 1 and 3 call for new development in areas subject to natural hazards to be designed to minimize risk to human life and property. The portion of the project located within the County's jurisdiction involves abandonment of existing pump station and the installation of small sewer force main segments on the fringe of Old Creek lagoon. This fringe area is affected by the LCP Flood Hazard designation associated with Old Creek and coastal high hazards (tidal inundation or tsunami). While abandoning these facilities in place may not have direct environmental impacts to sensitive species, it would create a potential health hazard and may have future adverse impacts to the public use of the area (see also Access and Recreation & Visual Resource findings). Project plans show that in this location, the new sewer main would be located only 3 feet below the sandy surface. Locating public infrastructure and abandoning unused facilities within such hazardous areas, is inconsistent with Hazards Policy 1 and 3. Alternative designs that avoid such impacts must be evaluated. Thus, a substantial issue exists regarding the project's consistency with LCP Hazard policies because it proposes to install and retain sewer infrastructure within hazardous areas.

2. Coastal Development Permit Findings (A-3-SLO-02-068 and 3-01-113)

In order to approve the Coastal Development Permit for this project, portions must be consistent with the LCP and other portions must be consistent with the Coastal Act. As discussed in the Substantial Issue findings, a portion of the project as approved by the County is located in a high hazard area and poses a risk to the environment. The sewer line location in the Commission's jurisdiction is also proposed to be in a potential hazard location presenting problems with Coastal Act consistency.

Coastal Act Section 30253 addresses the need to ensure long-term structural integrity, minimize future risk, and avoid additional, more substantial protective measures in the future. Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" solutions alter natural shoreline processes. Accordingly, with the exception of new coastal-dependent uses, Section 30235 limits the construction of shoreline protective works to those required to protect existing structures or public beaches in danger from erosion.

Since its installation in 1950's, the beach area sewer line has not had serious problems with leaks and ruptures. However, this does not mean that it will forever be immune to problems. Experiences with other sewer lines buried in the beach have indeed proved to be problematic. At Pot Belly Beach in Santa Cruz County, a beach sewer line has failed and been repaired on numerous occasions, and has resulted in the discharge of raw sewage onto the beach and bay. Absent some form of intervention, a continuation of these problems is expected with the beach sewer line. For this reason, Commission staff has recommended removal and inland routing of this line (CDP # 3-83-119-A3).

Furthermore, the proposed project is not immune from risks of coastal erosion, which could result in future damage to the pipe, and/or trigger a desire for some form of engineered armoring. The multiple variables presenting such risks include sea level rise, wave attack, storm and tidal surges, flooding, beach



retreat, cumulative impacts on shoreline sand supplies from up and downcoast armoring, and changes in creek morphology. The replacement line has been designed to minimize exposure to such hazards by boring the line fairly deep below the surface, within fairly consolidated soils. This will not, however, eliminate such risks, particularly where the line must approach the ground surface in order to connect to the existing system. Such risks can be avoided and minimized by relocating the collection system inland. Placement of the sewer line inland will also avoid the need for future shoreline structure to protect the sewer line, as required by Section 30253.

Accordingly, the conditions of approval require relocation of the beach sewer line an inland location that avoids the hazards posed by coastal erosion; prohibit future construction of a shoreline armoring device; and require the applicant to waive any Commission liability related to the hazardous location of the proposed development. The conditions also require that the existing 8-inch force main be removed in a timely manner should it become at all exposed on the beach or underwater. Only as conditioned will the project minimize risks to life and property in areas of high coastal hazards; assure stability and structural integrity; avoid geologic instability and damage to the surrounding area; and eliminate the need for protective devices that would substantially alter natural landforms along bluffs and cliffs (Coastal Act Sections 30235 and 30253).

E. Public Access and Recreation

1. Substantial Issue Findings

a. Summary of Appellant's Contentions

With Respect to Public Access and Recreation, the Appellant's contend:

⇒ *Morro Strand State Beach is an important visitor-serving and coastal recreation area. While limited access will be maintained during construction, a portion of the beach area will be closed to the public. The project is estimated to take 2-4 weeks to complete...however this construction period could be significantly increased. Most importantly, in the event of a pipeline failure or sewage spill it is possible that public access and recreation opportunities may be dramatically impacted.*

b. Applicable Coastal Act and LCP Provisions

Coastal Act Section 30604(c) requires that every local coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road on the beach. Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:



30210: *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

30211: *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

30212(a): *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...*

30213: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

30220: *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

30221: *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

30223: *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Coastal Act Section 30240(b) also protects parks and recreation areas. Section 30240(b) states:

Section 30240(b). *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The following LCP Policies apply:

Policy 1: Recreation Opportunities. *Coastal recreational and visitor-serving facilities, especially lower-cost facilities, shall be protected, encouraged and where feasible provided by both public and private means. Removal or conversion of existing lower-cost facilities and opportunities in areas designated with a "V" Visitor Serving Overlay in the LUE shall be prohibited unless the use will be replaced by a facility offering comparable visitor serving or recreational opportunities.... The new construction of non-visitor-serving or non-principally permitted uses shall only be permitted if it can be found that they would not prejudice the provision of adequate visitor-serving facilities to meet the foreseeable demand over the next 20 years [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD]*



Shoreline Access Policy 2: New Development. Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. Exceptions may occur when (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or; (3) agriculture would be adversely affected. Such access can be lateral or vertical [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.420 a. and c. OF THE CZLUO]

Shoreline Access Policy 4: Provision of Support Facilities and Improvements. Facilities necessary for public access shall be provided. This may include parking areas, restroom facilities, picnic tables or other such improvements. The level of these facilities and improvements should be consistent with the existing and proposed intensity and level of access use and provisions for on-going maintenance. Requirements for coastal access and improvements are identified in the specific Planning Area Standards and the Land Use Ordinance for the coastal zone [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.420 h. OF THE CZLUO].

Shoreline Access Policy 6: Public Safety. The level and intensity of shoreline access is to be consistent with public safety concerns related to bluff stability, trail improvements as well as the provision of adequate facilities such as signs fences and stairways. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.420 h. OF THE CZLUO]

Shoreline Access Policy 9: Restoration and Enhancement of Shoreline Access Areas. Areas that have been severely degraded through overly intense and unrestricted use should be restored by such techniques as revegetation with native plants, trail consolidation and improvements through the provision of support facilities such as parking, defined trail and/or beach walk stairway systems, trash receptacles restrooms, picnic areas etc. In extremely degraded areas (especially sensitive habitat areas), a recovery period during which public access would be controlled and limited may be necessary. This should be determined through consultation with the property owner and appropriate public agencies to establish the means of controlling public access that is reasonable and cost effective. Any limitation of use shall be evaluated periodically to determine the need for continued limited use. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.420j. OF THE CZLUO.]

c. County Action for Portion Within Appeal Jurisdiction

The County approved the project subject to a number of conditions to mitigate for the loss of public access and recreational opportunities. These include mitigations to repair the Southern parking lot; a construction time limit of 8 weeks, event scheduling coordination with CDPR; and a provision for signage on location to aid the public through and around the construction site.

d. Substantial Issue Analysis and Conclusion

Recreation and Visitor-Serving Policy 1 requires that coastal recreation and visitor-serving facilities be protected. In addition, Shoreline Access Policies 1,2,4,6 and 9 protect public access to the shoreline.



These policies are implemented by CZLUO Section 23.04.420.

The project will occur within the County road ROW and the State Park parking lots (North and South). Primarily the public visiting Morro Strand State Beach, which is directly adjacent, uses these parking areas. Construction and construction staging will occur within these parking areas and will require exclusion of public use for the duration of the project. The project is estimated to take 4-6 weeks to complete. While some access will be maintained, public parking will be excluded from nearly 50% of each parking lot. CDPR has expressed concern about the public ability to access restroom facilities in the North parking area as well. In addition, the applicant proposes to abandon, in place, pump station facilities located in popular access and picnic eating areas, directly adjacent to the North parking lot. The appellants are concerned about long-term impacts to access that this proposal may have. While the applicant proposes to remove all structures at-grade, “daylighting” of these structures may occur in the future, which would impede access and recreation opportunities in these locations. Thus, a substantial issue exists regarding the project’s consistency with the Public Access, Recreation, and Visitor-Serving Policies cited above.

2. Coastal Development Permit Findings (A-3-SLO-02-068 and 3-01-113)

As noted above, the project poses adverse impacts to the significant coastal access and recreation opportunities available in this area because it will temporarily reduce parking and involve drilling operations on the beach. The Applicant indicates that this force main installation would take approximately 4-6 weeks to complete. However, the duration of the project could be extended should difficulties arise in the boring process (i.e. frac-out, bore collapse, etc.).

While limited access will be maintained, the public would be excluded from the most heavily used portion of the beach near the parking lot, restrooms, beach trails, and eating areas. As shown on project plans, the staging area and construction corridor would be located in very close proximity to these beach park amenities. CDPR has expressed concern with the staging area location, in particular with the fact the construction area may prevent or impede access to the public restrooms. CDPR also points out that the public may be directed around the construction site, which has the potential to increase vehicle and pedestrian congestion. This is a concern to public safety as well as an adverse access and recreation impact.

In addition, the project involves the placement and abandonment of sewer system infrastructure within actively used beach areas. It is possible that the sub-surface infrastructure will become exposed and present a distinct safety hazard to beach users, and limit public access as a result. The exposed concrete bollards used to protect these facilities likewise present an obstacle to beach recreational use, not to mention adding a cluttered appearance. See Exhibit B for photos of these beach area structures. Finally, public access and coastal recreation will be negatively impacted in the event of sewer leaks and spills.

In sum, the proposed project is inconsistent with the Coastal Act’s public access and recreation policies because it:



- reduces public access and recreational opportunities contrary to the requirements of Coastal Act Section 30210;
- interferes with the public's right of access to the beach and bay at this location contrary to the requirements of Coastal Act Section 30211;
- degrades the lower cost visitor recreational facilities represented by the Morro Strand State Park Beach contrary to the requirements of Coastal Act Section 30213;
- converts oceanfront recreational land to non-recreational (sewer infrastructure) uses contrary to the requirements of Coastal Act Section 30221;
- consumes upland areas that support recreational uses contrary to Coastal Act Section 30223; and
- introduces risks and structures that are incompatible with continued recreational use of the beach to Coastal Act Section 30240(b) for the duration of the construction period.

In light of the access and recreation Coastal Act inconsistencies, and in order to ensure that the public access and recreation opportunities are protected, the conditions of approval require the permittee to:

- remove the decommissioned sewer pump station facilities from the beach area (see Special Condition 2). This will ensure that maximum public access and public recreational opportunities are maintained at this location consistent with the Coastal Act;
- implement construction methods that minimize impacts on public access to the beach and bay area;
- mitigate for unavoidable impacts to public access impacts by enhancing the Southern park area fronting Studio Drive, as recommended by the County and State Parks.

Improvements to the southern parking lot recommended by the Estero Area Plan include (a) paving the lot, (b) installing picnic tables and restrooms, (c) and installing interpretive signs for Old Creek Lagoon. All such improvements must be designed to protect adjacent wetland habitat. In coordination with County and State Parks staff, it has been determined that paving the parking lot is not desired. Rather, improvements to the parking lot should include the installation of a low fence (e.g. split rail, peeler post) that would delineate the parking area and prevent cars from driving into the beach/lagoon area and the installation of interpretive signs. Implementation of these improvements, and approval from the California Department of Parks and Recreation to conduct all development activities on State Parks property, are therefore required by the conditions of this permit.

Only with these conditions will the project maximize public access and recreation; minimize interference with the public's right of access to the sea; preserve lower cost visitor recreational facilities; protect water-oriented recreational; maintain oceanfront recreational land for recreational use; and be compatible with the continuation of the beach park and recreation area (Coastal Act Sections 30210, 30211, 30213, 30220, 30221, 30223, and 30240(b)).



F. Visual Resources

1. Substantial Issue Findings (A-3-SLO-02-068)

a. Summary of Appellant's Contentions

With Respect to Visual Resources, the Appellant's content:

⇒ *Abandoning the existing pump station and other above-grade metal and concrete structures don not blend with the natural terrain, as required by the LCP. Alternatives exist that would allow for the park to maintain its scenic, natural character.*

b. Applicable Coastal Act and LCP Provisions

Coastal Act Section 30251 states:

Section 30251. *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Visual access to and along the coast is also considered a form of public access. As such, the Coastal Act's access policies are also relevant. Applicable Coastal Act access policies include:

Section 30210. *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211. *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

The following LCP Policies apply:

Visual and Scenic Resource Policy 1: Protection of Visual and Scenic Resources. *Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD].*



Visual and Scenic Resource Policy2: Site Selection for New Development. Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created “pockets” to shield development and minimize visual intrusions. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD].

Visual and Scenic Resource Policy 5: Landform Alterations. Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with the adjacent natural terrain to achieve a consistent grade and natural appearance. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD PUSUANT TO SECTION 23.05.034 OF THE CZLUO.]

c. County Action for Portion Within Appeal Jurisdiction

The County approved the project subject to a number of conditions intended to lessen the visual impacts. These include a requirement for landscaping and screening that do not obscure views from adjacent property, including requirements for Landscape and Screening Plan.

d. Substantial Issue Analysis and Conclusion

Visual and Scenic Resources Policy 1, 2, and 5 serve to protect visual resources by requiring that new development be located in areas not visible from major public view corridors; be sited to protect major scenic views; and, restore visually degraded areas where feasible. As discussed, the proposed project will abandon existing pump facilities in an area of high scenic quality. While the applicant has proposed to remove all visible infrastructure at or below grade, a significant issue is raised because there remains a potential for negative visual impacts should any of the remaining components become exposed due to erosion in the future. (See Exhibit B for photos).

2. Coastal Development Permit Findings (A-3-SLO-02-068 and 3-01-113)

As discussed in the access and recreation finding proceeding, the subject sewer facilities include manholes, pump stations, concrete bollards and other aboveground structures. These non-recreational structures along the back-beach area significantly degrade the public viewshed (see Exhibit B). They are unsightly and degrade the scenic quality of the beach park setting. The Applicant’s proposal would increase these visually intrusive conditions by installing a parallel line segment with an additional motor control center, 2 additional manholes, and one raised concrete bollard post. Through the use of vegetative screening for the motor control center, effort has been made to reduce the visual impacts from such development. However, the visual impacts of structural abandonment have not been addressed.

The proposed development therefore does not protect the scenic and visual qualities of this sensitive coastal beach area as directed by Coastal Act Section 30251 it introduces urban infrastructure that is not



visually compatible with the character of the surrounding area and is not subordinate to the character of its beach setting. This also interferes with the public's access to the scenic views, such as views of Morro Rock, available at the north parking lot, inconsistent with the Coastal Act Sections 30211.

To avoid and minimize impacts to Coastal Resources consistent with Coastal Act and LCP requirements, the project has been conditioned to remove all existing infrastructure that will no longer be necessary as a result of the project. The one exception to this requirement is removal of the existing underground force main, since the trenching required to remove this pipeline would have adverse impacts to lagoon resources. Instead, the conditions require immediate removal of any sections of this pipe that may become exposed in the future. The conditions also require landscaping to minimize the visual impacts of the new infrastructure components to be installed.

Only with these conditions will the project protect the scenic and visual qualities of this sensitive coastal beach and bay area; maintain public access to these views; minimize the alteration of natural land forms; and be visually compatible with and subordinate to the character of its beach setting (Coastal Act Sections 30210, 30211, and 30251).

G. Land Use Priorities

Coastal-dependent and coastal-related development is among the highest priority Coastal Act uses. Section 30001.5 states in part:

Section 30001.5. *The Legislature further finds and declares that the basic goals of the state for the coastal zone are to: (a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources. ... (c) Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners. (d) Assure priority for coastal-dependent and coastal-related development over other development on the coast. ...*

The Coastal Act requires that public recreational uses take precedence over private residential and general industrial or commercial development, but not at the expense of coastal-dependent industry:

30220: *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

30221: *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

30222. *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or*



coastal-dependent industry.

30223: *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Coastal Act Section 30255 also provides:

Section 30255. *Coastal-dependent developments shall have priority over other developments on or near the shoreline. ...*

The Coastal Act defines coastal-dependent and coastal-related as follows:

Section 30101. *"Coastal-dependent development or use" means any development or use which requires a site on, or adjacent to, the sea to be able to function at all.*

Section 30101.3. *"Coastal-related development" means any use that is dependent on a coastal-dependent development or use.*

The subject sewer line, both the existing facilities and the proposed installation, are not coastal-dependent and are not coastal-related facilities and thus do not enjoy any sort of priority for siting on the beach. Coastal Act Sections 30220 – 30223 establish recreational use as the priority for the subject beach area. Accordingly, the proposed sewer line replacement is inconsistent with the land use priorities of the Coastal Act and can only be approved on the condition that it is re-routed to protect priority recreational uses.

H. Public Services

Coastal Act Section 30254 states:

Section 30254. *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two-lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.*

The proposed project would not expand the overall capacity of the existing sewer pipeline past what currently exists. Since capacity is not being expanded, the project is consistent with Coastal Act Section 30254.



9. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has analyzed the environmental impacts posed by the project, evaluated alternatives, and identified changes to the project that are necessary to reduce such impact to an insignificant level. Based on these findings, which are incorporated by reference as if set forth herein in full, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.

